



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,503	06/26/2003	Jeyhan Karaoguz	14046US02	5221
23446 7590 11/17/2009 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661				
EXAMINER				
WONG, BLANCHE				
ART UNIT		PAPER NUMBER		
2476				
MAIL DATE		DELIVERY MODE		
11/17/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/606,503

Applicant(s)

KARAOGUZ ET AL.

Examiner

BLANCHE WONG

Art Unit

2476

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed August 5, 2009 have been fully considered but they are not persuasive.
2. With regard to claims 1,7,13,19,23, Applicants has repeatedly argued that Examiner's sync response differs from "reporting back ... a presence". Remarks, p.9, line 13. Yet, Applicants notes that Examiner's Garces reference "send information to the remote device". Remarks, p.9, line 11. Examiner is unsure how it is possible to send information if there is no presence. Thus, there is presence. If Applicant is arguing that presence includes information about the presence, such a limitation is not found in the claim language. For example, Specification, para. [53], discloses "[t]he messaging protocol may include, ... six categories of messages or message types ....", one of which is Device\_Discovery. Specification, para. [54], further discloses "[i]n each of the message types ... the message may include, .... four message subtypes ...." If Applicant is arguing the ".data" message subtype, such a limitation is not found in the claim language. Additionally, Applicants states "the issue is whether the sync response ... contains information". Remarks, p.11, lines 1-2. This statement implies that Applicants expect some information within the response and/or information type of the response. Again, such a limitation is not found in the claim language.
3. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view

of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

4. Moreover, Applicants argue "faulty logic". Remark, p.10, line 19. If Examiner understands the deduction correctly, Applicants is saying once again, that the "faulty logic" is the argument that the sync response does not equate the presence. This is addressed above. If this is not Applicants' argument, Examiner requests that Applicants further spell out the "faulty logic".

5. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

6. Finally, Applicants argue "being separate and distinct from". Remarks, p.11, line 11. Applicants' amendment substitutes "not co-located with" with "being separate and distinct from". The differences of the terms are not explained. Examiner tried to understand the differences, if any, pertaining to the terms. If Applicants are speaking to the differences between 802.11b and 802.11g, where 802.11g compatible equipment operates in the same portion of the electromagnetic spectrum as 802.11b compatible equipment ..." and 802.11g is backward compatible more so than 802.11b is forward compatible (Specification, para. [14]), such a limitation is not found in the claim language.

7. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view

of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-25** are rejected under 35 U.S.C. 102(b) as being anticipated by Garces et al. (U.S. Pat NO. 6,445,688).

With regard to claims 1,7,13,19,23, Garces discloses  
broadcasting (**broadcasts**) at least one discovery message (**a batch of synchronization**) to at least one of a plurality of access points (**WAP device L1 130**) (**“Remote device K1 110 broadcasts a batch of synchronization ... 212 and 212 to ...WAP device L1 130”, col. 4, lines 27-30**) (*See Also* arrows from remote device K1 110 to WAPs in Fig. 1);

receiving a response (**a sync response**) from said at least one of a plurality of access points (**WAP device L1 130**), the response reporting a presence of at least one access device (**indicating WAP device 130 can send information**) located within a coverage area (**see Fig. 1**) of said at least one of a plurality of access points (**WAP device L1 130 after receipt of a broadcast sync packet 212 from remote device K1**

**110 sends back a sync response 216 indicating WAP device 130 can send information to remote device K1 110, col. 4, lines 33-38),** said at least one access device being separate and distinct from with said at least one of a plurality of access points **(the WAP device and remote device are two separate devices and thus not co-located);** and

requesting from said at least one of a plurality of access points **(requesting from the WAP device) (e.g. WAP device L1 130),** a status **(CQM session)** of said at least one access device located within said coverage area **(see Fig. 1)** of said at least one of a plurality of access points **(“The CQM session is initiated by the remote device requesting from the WAP device”, col. 4, lines 66-67).**

With regard to claims 2,8,14,20,24, Garces further discloses  
sending **(remote device K1 110)** at least one status request message **(CQM request)** to said at least one of a plurality of access points **(WAP device L1 130) (CQM request 310 from remote device K1 110 to WAP device L1 130 in Fig. 3, col. 5, lines 20-21) (See A/so “The CQM session is initiated by the remote device requesting from the WAP device”, col. 4, lines 66-67).**

With regard to claims 3,9,15,21,25, Garces further discloses  
receiving from said at least one of a plurality of access points, said at least one status reply message **(M1 CQM Packets from WAP Device L1 130 to remote device K1 110 in Fig. 3, col. 5, lines 27-28)** indicating said status of said at least one access

device **(M1 CQM Packets contains RSSI information, col. 5, line 10)** (RSSI is the signal strength between the access point and access device).

With regard to claims 4,10,16,22, Garces further discloses a messaging protocol message **(M1 CQM Packets contains RSSI information, col. 5, line 10)**.

With regard to claims 5,11,17, Garces further discloses broadcasting **(broadcasts)** from a switch **(remote device K1 110)** (See Also remote network device, col. 3, line 8) **(“Remote device K1 110 broadcasts a batch of synchronization ... 212 and 212 to ...WAP device L1 130”, col. 4, lines 27-30)**.

With regard to claims 6,12,18, Garces further discloses broadcasting only to access points **(WAP devices in Fig. 1)** located in a particular subnetwork **(Fig. 1 is a subnetwork)** **(“Remote device K1 110 broadcasts a batch of synchronization ... 212 and 212 to ...WAP device L1 130”, col. 4, lines 27-30)**.

With regard to claims 7-12, Garces further discloses a computer program **(pseudocode, col. 6, line 56)**.

With regard to claims 19-25, Garces further discloses processors **(remote devices and WAP devices in Fig. 1)**.

**Conclusion**

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BLANCHE WONG whose telephone number is (571)272-3177. The examiner can normally be reached on Monday through Friday, 830am to 530pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blanche Wong/  
Examiner, Art Unit 2476  
November 9, 2009  
/Ayaz R. Sheikh/  
Supervisory Patent Examiner, Art Unit 2476